

REMARKS

This amendment responds to the Office Action mailed June 15, 2005. In the Office Action, Claims 1, 4, 6, 8-12, 14-20, 23-29, and 32-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (U.S. Patent Application Publication 2003/0149988). Claims 5, 7, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis et al. in view of official notice taken by the Examiner. Claims 2, 3, 21, 22, 30, and 31 were rejected as being unpatentable over Ellis et al. in further view of an article by Heller ("VPS a new System for domestic VCR start/stop by programme labels transmitted within the insertion data line").

Applicant has carefully reviewed the Office Action and the cited art and submits that the claims presented above define an invention that is patentable over the prior art. Reconsideration and allowance of the application is respectfully requested.

Finality of Office Action

Applicant respectfully requests reconsideration of the finality of the Office Action. The Office Action introduced a new ground of rejection, including for independent Claims 19 and 20 which had not been amended. Claims 19 and 20 were previously rejected based on Rowe et al. In the present Office Action, Claims 19 and 20 stand rejected based on Ellis et al. Withdrawal of the rejection of Claims 19 and 20, as presented in the last Office Action, was not necessitated by applicant's amendment of the claims nor was it based on information submitted in an Information Disclosure Statement filed after the last Office Action. Accordingly, withdrawal of the finality of the Office Action is requested. See M.P.E.P. § 706.07(a) and (d).

The Present Application

The present application discloses embodiments of a method and system for providing a central recording system that facilitates time shifting and/or redistribution of television broadcast content. For example, a broadcast center receiving programming content from a plurality of broadcasters is able to record and store incoming content as it is received from local, regional, and national broadcasters and/or content sources to facilitate time shifting of content for clients,

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and provide an efficient mechanism for the distribution and/or redistribution of content. In one aspect, programming content is recorded and stored without previously receiving a request from a client terminal to record the content. See, e.g., page 12, line 21 to page 13, line 5 of the present application. By recording at least a portion of the programming content in this manner, which programming content has previously been broadcast to a plurality of client terminals at a broadcast time, and transmitting the programming content to a remote location at a time different from the broadcast time, recipients are given greater flexibility in receiving the content. See, e.g., page 15, lines 15-19 of the present application. ("In other embodiments, all or a portion of the incoming programming content may be recorded by the broadcast center 101 to enable the user to submit his or her request to receive recorded content after the original broadcast of the programming content to the plurality of client terminals 127, 129, and 131 has already taken place.") See, also, FIGURE 3 of the present application. The capacity to transmit content that was previously automatically recorded, at a time different from the broadcast time, provides greater flexibility than even an automatic temporary cache of a program that permits limited manipulation of program playback during the broadcast of the program.

Allowability of Claims Over Ellis et al.

The embodiment of the invention claimed in Claim 1 includes "receiving programming content from a plurality of broadcasters at a broadcast center" and "recording at least a portion of the programming content in a storage device without previously receiving a request from a client terminal to record the content." In response to a user-specified preference, the method further includes "retrieving at least one piece of programming content from the storage device, wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals." The retrieved piece of programming content is transmitted "to a location remote from a recording location at a time different from the broadcast time."

Careful review of the disclosure in the Ellis et al. publication confirms that Ellis et al. does not disclose or suggest each and every element of the method recited in Claim 1. The system disclosed by Ellis et al. is concerned with providing a program guide system that records programs at a remote media server in response to user requests. See paragraph [0012] of Ellis et al. A main facility provides program guide data to a number of television distribution facilities which distribute the program guide data to a number of interactive television program guides. The interactive television program guides may be implemented wholly on the users' television equipment. Alternatively, the program guides may be implemented partially on the users' television equipment and partially implemented on a server using a suitable client-server based or distributed approach.

Ellis et al. in particular fails to teach or suggest a method that includes "recording at least a portion of the programming content in a storage device without previously receiving a request from a client terminal to record the content" and "transmitting the at least one piece of programming content to a location remote from a recording location at a time different from the broadcast time" as set forth in Claim 1. To the contrary, Ellis et al. relies user input to initiate the recording and playback of programs and program guide data. See paragraph [0074] ("Programs and program guide data may be recorded and played back on-demand by remote media server 24 in response to record and playback requests."); paragraph [0084] ("As defined herein, a 'record request' is any command, request, message, remote procedure call, object based communication, or any other type of interprocess or inter-object based communication that allows the program guide to communicate information on the program *that the user wishes to record* to the media server.") (emphasis added); and paragraph [0142] ("When a user indicates a desire to record a program or program grouping on remote media server 24 or local media server 29 (and possibly a desire to confirm recording of the program), the program guide generates a record request that is transmitted to the appropriate remote media server by communications device 51 (FIG. 9) via communications path 20 or 31.").

For at least these reasons, applicant submits that the disclosure of Ellis et al. does not anticipate each and every element of Claim 1. Accordingly, the invention defining Claim 1 is patentable over the Ellis et al. publication, and Claim 1 should be allowed.

Claims 2-16 are also patentable over Ellis et al. for their dependence on allowable Claim 1 as well as for the additional subject matter recited therein. With respect to Claims 2 and 3, the disclosure of Heller does not cure the deficiencies in the Ellis et al. disclosure. Similarly, the official notice taken by the Examiner with respect to Claim 7 does not overcome the deficiencies in the Ellis et al. disclosure. Claims 2-16 should be allowed.

As to Claim 17, Ellis et al. does not teach or suggest "recording at least one piece of the programming content in a storage device without previously receiving a request from a client terminal to record the content" and "transmitting the at least one piece of the programming content to at least one user at a time different from the broadcast time" among other elements of Claim 17. As with Claim 1, applicant submits that the disclosure of Ellis et al. does not anticipate each and every element of Claim 17. To the extent Ellis et al. provides on-demand playback of content, it is at a user's request, prior to the broadcast of the content, to record the content. Claim 17 is patentable over the Ellis et al. publication. Claim 18 is also patentable over Ellis et al. for its dependence on allowable Claim 17 as well as for the additional subject matter recited therein. Accordingly, Claims 17 and 18 should be allowed.

Claim 19 recites, in part, "recording at least a portion of the programming content in a storage device without previously receiving a request to record the content" as well as "transmitting the at least one piece of programming content to an interactive television service to allow access to the at least one piece of programming content via a network after the at least one piece of programming content has been broadcast to a plurality of client terminals." For reasons discussed above, applicant submits that Ellis et al. does not teach or suggest all of these elements of Claim 19, and, thus, Claim 19 should be allowed.

Claim 20 is directed to a broadcast center in which execution of machine instructions causes a server processor to "receive the programming content from the plurality of broadcasters via a first communications link," "record at least a portion of the programming content in the storage device at a recording location without previously receiving a request from a client terminal to record the content," "broadcast the programming content to a plurality of client terminals via a second communications link," "retrieve at least one piece of the programming content from the storage device in response to a user request for recorded content," and "transmit the at least one piece of programming content to a location remote from the recording location after the broadcast of the programming content has taken place." After carefully considering the Ellis et al. disclosure, applicant finds that Ellis et al. fails to teach or suggest all of the elements of Claim 20. Claim 20 should, thus, be allowed.

Claims 21-28 are also patentable over Ellis et al. for their dependence on allowable Claim 20 as well as for the additional subject matter recited therein. With respect to Claims 21 and 22, the disclosure of Heller does not cure the deficiencies in the Ellis et al. disclosure discussed above. With respect to Claim 27 (and Claim 36 addressed below), applicant specifically contends that paragraph [0059] of Ellis et al. does not teach or suggest "wherein recording at least a portion of the programming content comprises, responding to a record-request received from a service provider via a third communications link." The disclosure of Ellis et al. provides no teaching of a service provider making such a record-request. Claims 21-28 should, thus, be allowed.

Claim 29 is directed to an article of manufacture comprised of a machine-readable medium including instructions stored thereon. In part, the instructions are defined to "record at least a portion of the programming content in a storage device at a recording location without previously receiving a request from a client terminal to record the content" and "in response to a user-specified preference, retrieve at least one piece of programming content from the storage device, wherein the at least one piece of programming content has previously been broadcast to a

plurality of client terminals at a broadcast time without request from the client terminals." The instructions are further defined to "transmit the at least one piece of programming content to a location remote from the recording location at a time different from the broadcast time." Ellis et al. does not teach or suggest each and every element of Claim 29. Therefore, the rejection of Claim 29 should be withdrawn. Reconsideration and allowance of Claim 29 is respectfully requested.

Claims 30-37 are also patentable over Ellis et al. for their dependence from allowable Claim 29 as well as for the additional subject matter recited therein. With respect to Claims 30 and 31, the disclosure of Heller does not cure the deficiencies in the Ellis et al. disclosure discussed above. Applicant also specifically contends that Claim 36 includes patentable subject matter for the reasons discussed above with respect to Claim 27. Claims 30-37 should be allowed.

Lastly, Claim 38, which has not been amended herein, should be allowed. Claim 38 recites a method that includes "recording at least a portion of the programming content in a storage device," "broadcasting the programming content as an original broadcast to a plurality of client terminals at a broadcast time," "receiving a request for at least one piece of programming content from at least one service provider via [a] communications link, wherein the at least one piece of programming content comprises programming content included in the original broadcast," "retrieving the at least one piece of programming content from the storage device," and "transmitting the at least one piece of programming content to at least one service provider at a time different from the broadcast time." As discussed above, Ellis et al. makes no disclosure of broadcasting to a plurality of client terminals at a broadcast time and receiving a request for at least one piece of programming content from at least one *service provider* (which is to be distinguished from the client terminals), nor does Ellis et al. teach or suggest transmitting the at least one piece of programming content to at least one service provider at a time different from

the broadcast time. As these elements of Claim 38 are not found in the Ellis et al. publication, Claim 38 should be allowed.

CONCLUSION

The disclosure of Ellis et al., either alone or in combination with the disclosure of Heller or the official notice taken by the Examiner, does not in fact teach or suggest all of the elements of the claimed invention. The system disclosed by Ellis et al. is intended to enable television users to request the storage of programming content for later playback on demand, which is different than the systems and methods claimed in the present application. The rejection of the claims should be withdrawn. Action to that end and allowance of the application at an early date is respectfully requested. Should any questions or comments remain prior to allowance, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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